ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR08-12

	Opinion Delivered September 24, 2008
STEVEN LEE SMITH APPELLANT	APPEAL FROM THE GREENE COUNTY CIRCUIT COURT, [NO. CR-2006-173]
V.	HONORABLE JOHN N. FOGLEMAN, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

JOHN MAUZY PITTMAN, Chief Judge

This is an appeal from multiple criminal convictions resulting from appellant's actions during a dangerous and extended high-speed vehicular flight from numerous police officers. Appellant was under the influence of methamphetamine and hydrocodone at the time of the incident, which culminated in his wrecking his vehicle after he crossed the Missouri border. Appellant was injured in the wreck, hospitalized, and transferred to an Arkansas detention facility. Approximately three days after the chase and wreck, appellant was given *Miranda* warnings, subjected to custodial interrogation, and made incriminating statements. For reversal, appellant argues that the trial court erred in admitting his custodial statement into evidence, and that several of his convictions are not supported by substantial evidence. We affirm.

Where the sufficiency of the evidence is challenged on appeal of a criminal conviction, double-jeopardy considerations require us to review the sufficiency of the evidence prior to

the consideration of trial error. *Harris v. State*, 284 Ark. 247, 681 S.W.2d 334 (1984). Our standard of review is well-settled:

> In reviewing a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the verdict. We do not reweigh the evidence but determine instead whether the evidence supporting the verdict is substantial. We affirm a conviction if substantial evidence exists to support it. Evidence, whether direct or circumstantial, is sufficient to support a conviction if it is forceful enough to compel reasonable minds to reach a conclusion without having to resort to speculation or conjecture. We do not, however, weigh the evidence presented at trial, as that is a matter for a factfinder. Nor will we weigh the credibility of the witnesses.

Stewart v. State, 88 Ark. App. 110, 112, 195 S.W.3d 385, 386 (2004) (quoting *Clem v. State*, 351 Ark. 112, 116, 90 S.W.3d 428, 429-30 (2002) (internal citations omitted)).

Appellant's arguments concerning the sufficiency of the evidence clearly lack merit. He argues that there was insufficient evidence that he created a substantial danger of death or serious physical injury to Skip Sullivan and David White to support his convictions for aggravated assault on those persons. In light of the evidence that appellant forced both victims off the roadway by moving onto the left side of the gravel road and driving directly toward them at speeds up to sixty miles per hour, intermittently turning off his headlights in the darkness as he attempted to avoid the pursuing police officer, we find no merit to this argument.

Neither do we agree that the State failed to prove that appellant lacked *mens rea* to commit battery in the second degree to Officer Binkley because he had no intent to injure and did not know that this victim was a police officer. There was evidence that Officer Binkley was in a marked police car and had his Mars lights illuminated when appellant, fleeing

another officer, struck Officer Binkley's unit head-on at a speed of approximately forty-five miles per hour, and that Officer Binkley was jostled, sore, and required medical treatment and medication as a result of a collision. A person is presumed to intend the natural consequences of his actions, *Leaks v. State*, 345 Ark. 182, 45 S.W.3d 363 (2001), and Officer Binkley could have been very seriously injured or killed when appellant collided head-on and at high speed with the police car that the officer was occupying.

Finally, appellant argues that the evidence was insufficient to show that he knowingly left the scene of an accident resulting in personal injury with respect to his collision with Officer Binkley. This, too, is without merit. The statute under which appellant was charged, Ark. Code Ann. § 27-53-101 (Supp. 2007), has been expressly held to include no element of intent regarding defendant's knowledge of a victim's injuries, *Stivers v. State*, 354 Ark. 140, 118 S.W.3d 558 (2003), and in any event the circumstances were such that appellant knew or should have known that personal injury was likely to result from the collision.

We next address appellant's arguments regarding the trial court's refusal to suppress his custodial statement. An accused's statement made while in custody is presumptively involuntary, and the burden is on the State to prove by a preponderance of the evidence that the custodial statement was given voluntarily and was knowingly and intelligently made. *See Smith v. State*, 334 Ark. 190, 974 S.W.2d 427 (1998). We review a trial court's ruling on a motion to suppress by making an independent review of the totality of the circumstances surrounding the confession to determine whether the appellant knowingly, voluntarily, and

intelligently waived his constitutional rights. *Davis v. State*, 330 Ark. 76, 953 S.W.2d 559 (1997).

Appellant first argues that his statement was involuntary because he was too impaired by psychiatric and pain medication sent with him from the hospital and was thus unable to give a valid consent to waive his *Miranda* rights. However, there was contrary evidence to show that notations were regularly made of any medicine accompanying prisoners, and that no such notation appears in appellant's file. Furthermore, the interviewer testified that appellant appeared to be alert, oriented, and capable of giving consent. Finally, an examination of appellant's statement itself shows it to be both lucid and purposeful. Under these circumstances, our review of the totality of the circumstances surrounding appellant's statement leads us to conclude that the trial court did not err in finding that appellant voluntarily and intelligently waived his *Miranda* rights.

Next, appellant argues that his waiver was involuntary because he was both subjected to abuse and promised preferential treatment if he agreed to make a statement. The only admitted behavior that could be seen as coercive was that appellant was placed in solitary confinement upon arrival at the detention facility. It was explained, however, that appellant was isolated to protect appellant from jostling by other inmates because he had sustained a serious neck injury and was wearing a brace. The remaining evidence was in sharp dispute. Appellant testified that officers promised to help him if he gave them information, and it does appear from the record that appellant did attempt to give the interviewer information about the criminal activity of others. However, these offers to provide information were not

accepted or pursued by the interviewer, and can reasonably be seen as a spontaneous attempt by appellant to obtain favorable treatment. After making an independent examination of the record giving due regard to the trial court's superior ability to determine credibility, we cannot be say that appellant's confession was coerced.

Affirmed.

MARSHALL and HEFFLEY, JJ., agree.